

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 1050**

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H. P. 797

House of Representatives, February 22, 1973

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. O'Brien, Portland.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Relating to Powers and Interest Charges of Industrial Banks  
and Loan Companies.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., T. 9, § 2345, repealed and replaced.** Section 2345 of Title 9 of the Revised Statutes, as amended by sections 7, 8 and 8-A of chapter 140 of the public laws of 1967, is repealed and the following enacted in place thereof:

**§ 2345. Powers**

In addition to the powers conferred upon corporations by the general corporation law, every industrial loan company shall have the following powers:

1. To borrow and lend money. To borrow money, to lend money and to acquire evidences of security interests or chattel paper; provided that in any such activities the maximum rate of interest charged to borrowers shall not exceed the rate permitted by section 2346;

2. To establish branches. To establish branch offices or agencies in the manner and subject to the conditions prescribed for the establishment of branches or agencies in the case of trust companies;

3. To purchase securities. To purchase, invest in, hold and sell such notes, bonds and securities as are legal for investments of deposits in savings banks;

4. To make loans insured under National Housing Act. To make such loans as are eligible for insurance pursuant to the National Housing Act,

Title I and to apply for and obtain insurance on said loans pursuant to said Act.

Sec. 2. R. S., T. 9, § 2346, additional. Title 9 of the Revised Statutes is amended by adding a new section 2346 to read as follows:

§ 2346. Maximum rate of interest

Subject to the prohibition of section 229 with respect to nonbusiness or personal loans in excess of \$2,000, an industrial loan company or industrial bank may charge, contract for and receive on loans interest not exceeding that permitted by this section.

Interest, calculated according to the actuarial method, may not exceed:

24% per year on that part of the unpaid balances of the principal which is \$300 or less;

21% per year on that part of the unpaid balances of the principal which is more than \$300 but does not exceed \$1,000; and

18% per year on that part of the principal which is more than \$1,000.

No industrial loan company or industrial bank shall induce or permit any borrower or borrowers to split up or divide any loan and all sums owed by any person at any one time directly or contingently shall be considered as one contract of loan for the purpose of computing the interest payable thereon. No industrial loan company or industrial bank shall induce or permit any person, nor any husband and wife, jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of interest than would otherwise be permitted by this section or section 229.

Interest, consideration or charges for the use of money payable to an industrial loan company or industrial bank shall not be deducted or received in advance and shall be computed on unpaid principal balances. Such interest, consideration or charges shall not be compounded; provided that, if part or all of the principal amount of any loan contract is the unpaid principal balance of a prior loan of an industrial loan company or industrial bank, the unpaid interest, consideration or charges for the use of money on such prior loan of such industrial loan company or industrial bank which have accrued within 60 days before the making of such loan contract may be incorporated as interest-bearing principal in the principal amount of such loan contract, and for the purposes of this section and section 229, any such new loan shall be deemed a separate loan transaction. In addition to the interest provided for by this section or section 229, no further charge or other amount whatsoever for any examination, service, brokerage commission or other thing, or otherwise, shall be directly or indirectly charged, contracted for or received, except insurance premiums for group life insurance and group accident and health insurance and any gain or return to the industrial loan company or industrial bank therefrom, and lawful fees, if any, actually and necessarily paid out by the industrial loan company or industrial bank to any public officer for filing or recording in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time

thereafter. No accident and health insurance shall be sold unless there is a waiting period of 30 days or more, a minimum payment of \$40 per month and the loan is for at least 18 months.

If interest or charges in excess of those permitted by this section or section 229, including insurance premiums and filing fees, shall be charged, contracted for or received, except as the result of an accidental and bona fide error in computation, the contract of loan shall be void and the industrial loan company or industrial bank shall have no right to collect or receive any principal, interest or charges whatsoever. If interest or charges in excess of those permitted by this section or section 229, including insurance premiums and filing fees, shall be charged, contracted for or received, as a result of an accidental or bona fide error in computation, the industrial loan company or industrial bank shall have no right to collect or receive any interest, insurance premiums or filing fees, but shall be entitled to receive and collect the principal of the loan. Upon a finding of the District or Superior Court that interest or charges in excess of those permitted by this section or section 229 have been charged, contracted for or received, other than as the result of an accidental and bona fide error in computation, the industrial loan company or industrial bank shall forfeit to the borrower the amount of all payments made as principal and interest payments and the industrial loan company or industrial bank shall mark and return the note and other papers relating to the contract of loan as paid. Reasonable attorneys' fees and costs shall be awarded to the borrower if he is the prevailing party in such action.

Each industrial loan company or industrial bank shall annually report to the Commissioner of Banks and Banking the amount of credit insurance sold, premiums charged therefor and claims paid on a form prescribed by the commissioner and a summary of these reports will be included in the annual report of the commissioner.

Sec. 3. R. S., T. 9, § 2381, sub-§ 2, amended. Subsection 2 of section 2381 of Title 9 of the Revised Statutes, as amended by chapter 454 of the public laws of 1965, is further amended to read as follows:

2. **Loan limitations; 5-year limit.** Make any loan for a longer period than 5 years from the date thereof, except in the case of loans that are eligible for insurance under the National Housing Act and for the insurance of which under that Act seasonable application is made pursuant to the National Housing Act, Title I;

#### STATEMENT OF FACT

The purpose of this bill is to change existing rates in the present industrial bank law and the present industrial loan law. The bill also provides for an extension of the maximum maturity from 36 months to 60 months. Two other changes have been incorporated for the protection of the borrower.